

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

United States of America,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No.
	)	
Joseph L. Scriven, Debra L. Moller,	)	
f/k/a Debra L. Scriven, FIA Card	)	
Services, Commonwealth of Massachusetts,	)	
and City of Brockton, Massachusetts,	)	
	)	
Defendants.	)	

COMPLAINT

The United States of America, pursuant to the provisions of 26 U.S.C. § 7401 and 7403(a), with the authorization of the Secretary of the Treasury and at the direction of the Attorney General of the United States of America, brings this civil action to reduce federal tax assessments to judgment and to enforce the liens of the United States upon the property and rights to property of defendant Joseph F. Scriven in the real property located at 54 Hobson Street in Brockton, Massachusetts 02302 (hereinafter the “Hobson Street property”) and, for its complaint, complains and alleges that:

1. Jurisdiction over this action is conferred upon the district court by 28 U.S.C. §§ 1331, 1340, and 1345, as well as 26 U.S.C. §§ 7402(a) and 7403.
2. Defendant-taxpayer Joseph F. Scriven resides within the jurisdiction of this Court.

3. Defendant Debra L. Moller, f/k/a Debra L. Scriven, is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b) for the reason that she has, or may claim, an interest in the property upon which the United States seeks to enforce its liens.
4. FIA Card Services, NA (n/k/a Bank of America) is named as a defendant in this action, pursuant to 26 U.S.C. § 7403(b) for the reason that it has, or may claim, an interest in the property upon which the United States seeks to enforce its liens.
5. The Commonwealth of Massachusetts is named as a defendant in this action, for the reason that it has, or may claim, an interest in the property upon which the United States seeks to enforce its liens.
6. The City of Brockton, Massachusetts, is named as a defendant in this action, for the reason that it has, or may claim, an interest in the property upon which the United States seeks to enforce its liens.

**COUNT 1 – REDUCE TO JUDGMENT FEDERAL  
TAX ASSESSMENTS MADE AGAINST JOSEPH SCRIVEN**

7. Joseph F. Scriven is indebted to the United States of America for unpaid federal employment (Form 941) taxes for the quarterly tax periods ending September 30, 1998; December 31, 1998; March 30, 1999; June 30, 1999; September 30, 1999; December 31, 1999, and March 30, 2000, and for unpaid federal unemployment (Form 940) taxes for the annual tax period ending December 31, 1999.
8. A delegate of the Secretary of the Treasury of the United States made assessments of the tax liabilities identified above, and sent notice of the assessments to and made a demand for payment of the assessments upon Joseph F. Scriven, on or about the following dates:

<b>Assessment Date</b>	<b>Tax Period Ending</b>	<b>Tax Type</b>	<b>Amount owed as of February 21, 2013</b>
01/31/2000	September 30, 1998	Form 941	\$ 2,060.15
01/31/2000	December 31, 1998	Form 941	\$ 24,871.96
01/31/2000	March 30, 1999	Form 941	\$ 28,633.72
01/31/2000	June 30, 1999	Form 941	\$ 34,927.33
02/07/2000	September 30, 1999	Form 941	\$ 35,829.17
04/03/2000	December 31, 1999	Form 941	\$ 24,328.92
06/26/2000	March 30, 2000	Form 941	\$ 1,469.80
03/13/2000	December 31, 1999	Form 940	\$ 476.90
		<b>Total:</b>	<b>\$ 152,597.95</b>

9. Despite such notice and demand, Joseph F. Scriven has failed, neglected, or refused to pay in full the liabilities described in paragraph 8, above, plus interest and other accruals permitted by law.

**Count II—Enforce Liens on Property in Plymouth County, Massachusetts**

10. The failure, neglect, or refusal of Joseph F. Scriven to pay the taxes assessed against him following notice of the assessments and demand for payment of the same, gave rise, as of the dates of the assessments, to liens in favor of the United States, pursuant to 26 U.S.C. §§ 6321 and 6322, upon all of the property and rights to property of Joseph F. Scriven in an amount equal to the unpaid balance of the assessments, plus interest and other accruals permitted by law.

11. On the dates below, a delegate of the Secretary of the Treasury recorded Notices of Federal Tax Lien in accordance with 26 U.S.C. § 6323 with the Registry of Deeds of Plymouth County, Massachusetts, as described below:

<b>Date Filed (Date Refiled)</b>	<b>Tax Type &amp; Tax Period</b>	<b>Book Number, Page Number (Refiled Book Number, Refiled Page Number)</b>	<b>Against Whom Filed</b>
February 28, 2000	<u>Form 941:</u>  September 30, 1998 December 31, 1998 March 31, 1999 June 30, 1999 September 30, 1999	18308, 36	Joseph F. Scriven JFS Courier Service
August 14, 2000	<u>Form 941:</u>  December 31, 1999 March 31, 2000  <u>Form 940:</u>  December 31, 1999	18786, 260	Joseph F. Scriven JFS Courier Service
(August 13, 2009)	<u>Form 941:</u>  September 30, 1998 December 31, 1998 March 31, 1999 June 30, 1999 September 30, 1999	(37610, 220)	Joseph F. Scriven JFS Courier Service
(August 13, 2009)	<u>Form 941:</u>  December 31, 1999 March 31, 2000  <u>Form 940:</u>  December 31, 1999	(37610, 219)	Joseph F. Scriven

January 30, 2007 (September 2, 2009 for Form 941 for taxable periods ending September 30, 1998, December 31, 1998, March 31, 1999, June 30, 1999, and September 30, 1999)	<u>Form 941:</u> September 30, 1998 December 31, 1998 March 31, 1999 June 30, 1999 September 30, 1999 December 31, 1999 March 31, 2000  <u>Form 940:</u> December 31, 1999	34045, 349-350 (37682, 119)	Debra L. Moller FKA Debra L. Scriven as nominee of Joseph F. Scriven
February 8, 2007 (August 13, 2009 and September 2, 2009 for Form 941 for taxable periods ending December 31, 1999 and March 31, 2000)	<u>Form 941:</u> September 30, 1998 December 31, 1998 March 31, 1999 June 30, 1999 September 30, 1999 December 31, 1999 March 31, 2000  <u>Form 940:</u> December 31, 1999	34088, 67 (37610, 219) 8/13/09 (37682, 120) 9/2/09	Debra L. Moller FKA Debra L. Scriven as nominee of Joseph F. Scriven

12. Record title to the property located at 54 Hobson Street, Brockton, Massachusetts, currently is held by Debra L. Moller, f/k/a Debra L. Scriven, and that property is more fully described as:

A certain parcel of land with the buildings thereon situated in Brockton, Plymouth County, Massachusetts, on the easterly side of Hobson Street and being shown as Lot 368 on a plan entitled "Indian Heights at Brockton, Brockton, Mass." dated December 1, 1956 by Bradford Saivetz, C.E. said plan being duly recorded with Plymouth Deeds as Plan #325 of 1957 Section IV on June 24, 1957, and according to said plan bounded and described as follows:

Northerly: by Lot 367 as shown on said plan 126.92 feet;

Easterly: by part of Lots 43 and 42 as shown on said plan 115.01 feet;

Southerly: by Lot 369 as shown on said plan 128.19 feet;

Westerly: by Hobson Street as shown on said plan 115.00 feet.

Containing according to said plan 14,668 square feet of land, more or less.

Together with the right to use all streets on said plan for all purposes for which streets and ways are used in common with others entitled thereto.

Subject to and with the benefit of a sewer easement 15 feet wide, as shown on said plan, along the northerly bound, dated March 30, 1911 and recorded with said Registry of Deeds in Book 1035, Page 285 and Book 1081, Page 457.

Subject also to a drainage easement as shown on said plan.

Being the same premises conveyed to us by Wayne E. Brooks, Executor under the Will of Stafford S. Brooks dated May 6, 1985 and recorded with the Plymouth Deeds in Book 6087, Page 204.

Being the same premises conveyed by James M. Dembrowski and Gary R. Stern to Joseph F. Scriven and Debra L. Scriven by deed, dated March 18, 1988, and recorded with the Plymouth County Registry of Deeds on March 21, 1988, at Book 8343, Page 3 and the property conveyed by Joseph F. Scriven to Debra L. Moller by deed, dated December 19, 2000, and recorded with said registry on December 20, 2000, at Book 19190, Page 198.

13. On or about March 18, 1988, the Hobson Street property was conveyed by James M. Dembrowski and Gary R. Stern to the defendants Joseph Scriven and Debra Moller as tenants by the entirety, by quit-claim deed.
14. On January 31, 2000, the date of assessment of the earliest outstanding unpaid tax liability assessed against Joseph F. Scriven, the federal tax liens against Joseph F. Scriven attached to the Hobson Street property.
15. On or about December 12, 2000, Joseph F. Scriven and Debra L. Moller divorced.
16. On or about December 19, 2000, Joseph F. Scriven conveyed his interest in the Hobson Street property to Debra L. Moller, by quitclaim deed, for consideration of less than \$100.00. This transfer of the Hobson Street property was made subject to the federal tax liens described in this complaint.
17. The United States is entitled to the enforcement of its federal tax liens against the Hobson Street property, and the property should be sold free and clear of all rights, titles, liens, claims, and interests of the parties, with the proceeds of the sale distributed according to law.

WHEREFORE, the United States of America demands the following:

- A. Judgment in favor of the United States and against Joseph Scriven in the amount of \$152,597.95, plus statutory interest according to law from February 21, 2013, plus some additional amounts as may continue to accrue as provided by law.
- B. Judgment in favor of the United States and against defendant-taxpayer Joseph F. Scriven, that the United States has valid and subsisting federal tax liens on all property and rights to property of Joseph F. Scriven, including his interest in the

Hobson Street property, in the amount of the outstanding unpaid balance due on all of his federal tax liabilities, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c), for which Notices of Federal Tax Lien were properly filed;

- C. Judgment that the United States may enforce its federal tax liens against the Hobson Street property, and ordering the property to be sold, according to law, free and clear of all rights, titles, claims, and interest of the parties to this case, with the net proceeds of the sale, after the satisfaction of the direct costs of sale, to be allocated among the interests of the parties in accordance with their lawful priorities; and,
- D. Any other relief that the Court deems just and proper, including, but not limited to, an award of the United States' costs.

KATHRYN KENEALLY  
Assistant Attorney General  
Tax Division, U.S. Department of Justice

s/Michael R. Pahl  
MICHAEL R. PAHL  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 7238, Ben Franklin Station  
Washington, D.C. 20001  
Tel: (202) 514-6488  
Fax: (202) 514-6770  
Email: michael.r.pahl@usdoj.gov